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10/581,695	07/11/2006	Kazuhito Tanimoto	F-9067	1820
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JORDAN AND HAMBURG LLP 122 EAST 42ND STREET SUITE 4000 NEW YORK, NY 10168				WRIGHT, PATRICIA KATHRYN
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/581,695	TANIMOTO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	P. Kathryn Wright	1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 May 2008.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 and 12-15 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-10 and 12-15 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 06 June 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Status of the Claims***

1. This action is in response to papers filed May 05, 2008 in which claims 1-3, 7, 9-10 were amended, claim 11 was canceled, and claims 12-15 were added. The amendments have been thoroughly reviewed and entered. Any objection/ rejection not repeated herein have been withdrawn by the Examiner.

New grounds for rejection, necessitated by the amendments, are discussed.

Claims 1-10 and 12-15 are under prosecution.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “motor” in claim 7, “step”, “shelf” and “flat face” in the separation cell in claim 10, “motor for separation and motor for determination switchable configuration” in claim 14 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The new recitation of the step present at the boundary of the insoluble matter collection zone and the supernatant separation zone define a shelf which extends horizontally from an internal side surface of the insoluble matter collection zone towards the rotational center and continuing to a corresponding side surface of the supernatant separation zone is not supported in the specification as originally filed. Furthermore, Applicant cannot rely on the drawings for support since the disclosure gave no indication that the drawings were to scale. It is well established that patent drawings do

not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 3, 10 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites "...separation cell is provided with an insoluble matter collection zone and with a lid at an upper portion of the separation cell above the insoluble matter collection zone to partially cover the separation cell to prevent the suspension from flowing out during centrifugal separation, said structural configuration comprising said lid." Emphasis added. Applicant has recited a lid on the separation cell twice.

Claim 10 recites "said step present at the boundary of the insoluble matter collection zone and the supernatant separation zone defining a shelf". This is confusing and indefinite. The "step" and the "shelf" are the same element, as defined by the instant specification at page 11, lines 5-6. Applicant is reminded that the recitation of the same element under different names in different parts of the claim or the use of same term to refer to different elements is indefinite. The same term should be used for an element each and every time it is recited.

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See

MPEP § 2172.01. The omitted structural cooperative relationships are between the motor for separation and motor for determination and the elements of the reaction disk recited in claim 1.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-6 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (US Patent No. 3,586,484).

With respect to claim 1, Anderson teaches an automatic supernatant analyzer (i.e., includes analytical photometer 22 with lamp 20) that utilizes a reaction disk (rotor assembly 1). The reaction disk 1 which includes separation cells formed on a removable transfer disc 11, and a determination cell (reaction cuvette 9) provided in the rotary cuvette system 5 in a same reaction disk 1. The transfer disc 11 includes the separation cells. The separation cells are formed in an upright position (i.e., substantially vertical position). Thus, the cells remain upright even during rotation thereof (see Figs.1-6).

Note that Anderson teaches at col. 4, lines 34-37, the transfer disc 11 may be used alone or in conjunction with a rotary cuvette system. Thus, separation cells in transfer discs 11 and cuvettes 9 in the rotary cuvette ring 5 are independently separate from each another in the same reaction disk 1.

With respect to the functional language in claim 1 describing the separation cell includes a structural configuration for preventing a suspension from flowing out during centrifugal separation. Again, the recitation of a “structural configuration” is merely functional. That is, no element is positively recited which prevents a suspension from flowing out during centrifugal separation. Applicant is reminded only structural language is determinative of the metes and bounds of a patent claim. Functional recitations, standing alone, while perhaps helpful in understanding the meaning of a claim and the invention that it represents, cannot be relied upon to distinguish over the prior art. Applicant must establish that what is expressly taught by the prior art does not inherently function in the manner required by the claim.

Nevertheless, Anderson does teach that the separation cell includes a structural configuration (i.e., lid 18 is shown attached to transfer disk 11) for preventing a suspension from flowing out during centrifugal separation; that is, the passageway 15 is formed such that centrifugal forces prevent passage of the supernatant 31 until the cell 11 is brought to rest so that gravitation forces predominates to cause the supernatant to flow the holding chambers 16. Anderson also teaches that the separated supernatant in the separation cell is dispensed to the determination cell (cuvette 9) through passageway 17 upon further rotation of the reaction disk for analysis of any target substance in the supernatant (see col. 3, lines 35-60).

Regarding claim 2, Anderson teaches a single motor 19 being selectable so as to rotate at a first speed for rotating the separation cell for separation of the suspension into supernatant and insoluble matter and at a second speed for rotatably positioning the determination cell 9 for analysis (see col. 2, lines 69-71 and col. 3, lines 41-47).

Note the dispensing probe is not a positively recited element of the reaction disk and therefore does not serve to distinguish over the prior art.

With respect to claim 3, the separation cell in disc 11 is provided with an insoluble matter 30 collection zone 14 and with a lid 18 at an upper portion of the separation cell above the insoluble matter collection zone to partially cover the separation cell to prevent the suspension from flowing out during centrifugal separation (Figs. 5-6).

Regarding claims 4 and 5, nothing in the claim structurally distinguishes the so-called “dilution cell” from the “separation cell”. Moreover, a recitation with respect to the manner in which a claimed apparatus is intended to be employed fails to differentiate the claimed apparatus from a prior art apparatus if the prior art apparatus teaches all the structural limitations of the claim. Figs. 2-6 of Anderson illustrate at least two different sets of interconnected chambers 12, 14, 16 on opposite sides of the assembly 1. Thus, the Examiner contends that one set of chambers 12, 14, 16 can be used as the “separation cell” and the other set can be used as a “dilution cell”. As with the separation cells, the dilution cells are kept in upright position during rotation. In addition, the dilution cell is formed to prevent poured dilution solution therein from flowing out during centrifugal separation, and the dilution solution in the dilution cell is arranged to be dispense into the determination cell to dilute the supernatant. That is, the dilution cell is formed to prevent a suspension from flowing out during centrifugal separation. Specifically, the passageway 15 is formed such that centrifugal forces prevents passage of the dilutant through the passageway 15, until the cell 11 is brought to rest so that gravitation forces predominates to cause the dilutant to flow the holding

chambers 16. Likewise, the dilution cell is provided with a lid 18 at an upper portion of the dilution cell to partially cover the dilution cell to prevent the dilution solution from flowing out during centrifugal separation.

With respect to claim 6, please note that the material worked on (i.e., the suspension is blood, insoluble matter is blood cell or the supernatant is plasma) is of no significance in determining patentability of the apparatus claim. The inclusion of material worked upon by a structure being claimed does not impart patentability to the claims.

As to claim 15, the reaction disk includes a structure (axel attached to motor 19) defining a rotational axis (vertical axis perpendicular disk 1) thereof about which the reaction disk is rotated during centrifugation and interior vertical side walls of each of the separation cell and the determination cell are arranged substantially parallel to the rotational axis. Note that that word “substantially” parallel does not mean “exactly vertical”.

9. Claims 1, 3-8 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Guigan (US Patent No. 5,077,013).

With respect to claim 1, Guigan teaches an automatic supernatant analyzer (i.e., includes analytical reader 8) that utilizes a reaction disk (rotor assembly 4). The reaction disk 4 includes a separation cell 60, and a determination cell 40, 40' in a same reaction disk 4. The separation cells are formed in an upright position (i.e., substantially vertical position shown in Fig. 2), thus the cells remain upright even during rotation thereof. The separation cell and determination cell are removable from the reaction

disk and independently separate from one another. Guigan also teaches that the separated supernatant in the separation cell is dispensed to the determination cell 60 through probe 19 and means for moving the top turntable over the formed on the turntable 3 upon further rotation of the reaction disk for analysis of any target substance in the supernatant (see col. 3, lines 35-60).

With respect to the functional language in claim 1 describing the separation cell includes a structural configuration for preventing a suspension from flowing out during centrifugal separation. Again, the recitation of a “structural configuration” is merely functional. That is, no element is positively recited which prevents a suspension from flowing out during centrifugal separation. Applicant is reminded only structural language is determinative of the metes and bounds of a patent claim. Functional recitations, standing alone, while perhaps helpful in understanding the meaning of a claim and the invention that it represents, cannot be relied upon to distinguish over the prior art. Applicant must establish that what is expressly taught by the prior art does not inherently function in the manner required by the claim.

Nevertheless, Guigan does teach that the separation cell includes a structural configuration (i.e., lid 68 is shown attached to separation) for preventing a suspension from flowing out during centrifugal separation. Note that the lid includes a vent hole 93, thus, it only “partially “covers the separation cell, see Fig. 2.

Regarding claim 2, Guigan teaches a single motor 20 being selectable so as to rotate at a first speed for rotating the separation cell for separation of the suspension into supernatant and insoluble matter and at a second speed for rotatably positioning the determination cell 9 for analysis (see col. 2, lines 69-71 and col. 3, lines 41-47).

Note the dispensing probe is not a positively recited element of the reaction disk and therefore does not serve to distinguish over the prior art.

With respect to claim 3, Guigan teaches the separation cell in disc 4 is provided with an insoluble matter collection zone 90 and with a lid 60 at an upper portion of the separation cell above the insoluble matter collection zone to partially cover the separation cell to prevent the suspension from flowing out during centrifugal separation (Figs. 1-3B).

Regarding claims 4 and 5, nothing in the claim structurally distinguishes the so-called “dilution cell” from the “separation cell”. Moreover, a recitation with respect to the manner in which a claimed apparatus is intended to be employed fails to differentiate the claimed apparatus from a prior art apparatus if the prior art apparatus teaches all the structural limitations of the claim. Figs. 2-6 of Guigan illustrate at least two different cells 60 on opposite sides of the assembly 4. Thus, the Examiner contends that one set of cells 60 can be used as the “separation cell” and the other can be used as a “dilution cell”.

As with the separation cells, the dilution cells are kept in upright position during rotation. In addition, the dilution cell is formed to prevent poured dilution solution therein from flowing out during centrifugal separation, and the dilution solution in the dilution cell is arranged to be dispense into the determination cell to dilute the supernatant. That is, the dilution cell is formed to prevent a suspension from flowing out during centrifugal separation. Specifically, the passageway 15 is formed such that centrifugal forces prevents passage of the dilutant through the passageway 15, until the cell 11 is brought to rest so that gravitation forces predominates to cause the dilutant to

flow the holding chambers 16. Likewise, the dilution cell is provided with a lid 18 at an upper portion of the dilution cell to "partially" cover the dilution cell to prevent the dilution solution from flowing out during centrifugal separation.

With respect to claim 6, please note that the material worked on (i.e., the suspension is blood, insoluble matter is blood cell or the supernatant is plasma) is of no significance in determining patentability of the apparatus claim. The inclusion of material worked upon by a structure being claimed does not impart patentability to the claims.

As to claim 7, Guigan teaches the reaction disk as discussed above, a lamp 8 and a motor 20. Guigan also teaches a dispensing probe 19 through which the separated supernatant in the separation cell 60 is dispensed to the determination cell 40 through dispensing probe 19. Guigan also teaches means for moving (lever 29) the dispensing probe 19 to the determination cell of reaction disk (see col. 3, lines 35-60). Note the relationship between the reaction disk and dispensing probe is not defined in the claim. Thus, the probe 19 reads on the "dispensing probe" as claimed. Also, the substance being dispensed (i.e., reagent) does not impart patentability to the claims.

Regarding claim 8, again note that the material worked on (i.e., the suspension is blood, insoluble matter is blood cell or the supernatant is plasma) is of no significance in determining patentability of the apparatus claim. The inclusion of material worked upon by a structure being claimed does not impart patentability to the claims.

With respect to claim 13, the separation cell 60 in disc 4 is provided with a lid 60 having a vent 93 at an upper portion of the separation cell above the insoluble matter

collection zone to partially cover the separation cell to prevent the suspension from flowing out during centrifugal separation.

Regarding claim 14, the reaction disk of Guigan includes a motor for separation in module 9 (see entire document, especially col. 3, lines 27-60 and fig. 1) and a motor 20 for determination (i.e., positioning determination cells 40). It is expected that these independent motors are switchable, that is, they can operate alternatively.

As to claim 15, Guigan teaches the reaction disk includes a structure (shaft 25 attached to motor 20) defining a rotational axis (vertical axis 10) thereof about which the reaction disk is rotated during centrifugation. The interior vertical side walls of each of the separation cell and the determination cell are arranged substantially parallel to the rotational axis, see Figs. 2 and 5. Note that that word “substantially” parallel does not mean “exactly vertical”.

10. Claims 9-10 and 12, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Nilsson et al. (US Patent No. 5,472,671), hereinafter “Nilsson”.

Nilsson teaches a separation cell (cuvette 10) for separating an insoluble matter from suspension. The separation cell comprises a cell having an interior including a lower part thereof defining an insoluble matter collection zone (chamber 22) and an upper part thereof defining a supernatant separation zone (channel 18), a horizontal cross sectional area of the supernatant separation zone 18 being greater than a corresponding cross sectional area of said insoluble matter collection zone 22 thereby creating a step between said supernatant separation zone and said insoluble matter collection zone;

and a lid 20 being disposed at an upper part of the cell. The lid 20 being disposed to only partially cover the cell so as to leave an opening through which the supernatant is withdrawable from above while preventing the suspension in the cell from flowing out during centrifugal separation. The cell of Nilsson is provided with a hydrophobic material 20 at an upper part of the cell above the insoluble matter collection zone 18 that can act as a "lid" since it partially covers an opening in the cell to prevent the suspension therein from flowing out during centrifugal separation due to its hydrophobic nature, see entire document in particular, col. 3, line 36- col. 4, line 52 and Figs. 1-2. Note that since fluid is capable of flowing through the hydrophobic material 20 to enter the supernatant separation zone 22, the pores in the filtering material are considered to only "partially cover" the cell 10 and provide openings through which the supernatant is capable of being withdrawn (see col. 4, lines 6-10).

Note the recitation of the cell being disposed in upright position relative to a rotational axis about which said separation cell is eccentrically revolvable, the upright position being maintained during the centrifugal separation. It is functional language since the claim is the structure of the separation cell and centrifuge is not a positively recited element of the cell. Applicant is reminded only structural language is determinative of the metes and bounds of a patent claim. Functional recitations, standing alone, while perhaps helpful in understanding the meaning of a claim and the invention that it represents, cannot be relied upon to distinguish over the prior art. Applicant must establish that what is expressly taught by the prior art does not inherently function in the manner required by the claim.

Regarding claim 10, the rotational center of the separation cell being coincident with the rotational center of the centrifuge does not serve to distinguish from the prior art since the claims are to the structure of the cell, not the combination of the cell and centrifuge. Nilsson teaches the step present at the boundary of the insoluble matter collection zone 22 and the supernatant separation zone 18 define a shelf (horizontal portion under ref no. 18 in Fig. 2) which extends horizontally from an internal side surface of the insoluble matter collection zone 22 towards the rotational center and continuing to a corresponding side surface of the supernatant separation zone 18, other respective side surfaces of the insoluble matter collection zone and the supernatant separation zone, which are opposite to the side surface and the corresponding side surface, collectively forming a flat face in the cell, see Fig. 2.

Regarding claim 12, the material worked on (i.e., the suspension is blood, insoluble matter is blood cell or the supernatant is plasma) are of no significance in determining patentability of the apparatus claim. The inclusion of material worked upon by a structure being claimed does not impart patentability to the claims. See MPEP 2115.

### ***Response to Arguments***

11. Applicant's arguments filed May 19, 2008 have been fully considered but they are not persuasive.

In response to the previous rejection of claims 1-8 under 35 U.S.C. 102(b) as being anticipated by Anderson (US Patent No. 3,586,484), Applicant argues the separation cell and determination cell (reaction cuvette 9) provided in the same reaction

disk and the separation cell is interconnected to the determination cell in Anderson. This is allegedly in direct contradiction to the claimed recitation requiring that the respective cells be separate and discrete. Furthermore, Applicant argues the cells 12, 14, 16 in Anderson are all disposed at an angle relative to true vertical, and therefore cannot be said to be "upright" as claimed.

The Examiner respectfully disagrees. First, Anderson teaches at col. 4, lines 34-37, the transfer disc 11 may be used alone or in conjunction with a rotary cuvette system. Thus, separation cells in transfer discs 11 and cuvettes 9 in the rotary cuvette ring 5 are "independently distinct and separate from each another" in the same reaction disk 1. As to the chambers of the separation cells being at an angle, the Examiner points out that claims do not require the chambers to be exactly vertical. The term "upright" as defined in Applicant's specification at page 18, lines 3-5 means "substantially vertical". Clearly, the chambers 12, 14, 16 in Anderson are "substantially vertical". Thus, the claims remain rejected.

In response to previous rejection of claims 9-12 under 35 U.S.C. 102(b) as being anticipated by Nilsson (US Patent No. 5,472,671), Applicant argues that the cuvette disclosed in Nilsson therein is rotated about an axis of rotation C shown in Fig. 1 and described at column 4, lines 33-43. Therefore, Fig. 1 is a plan (top) view in a direction of the axis of rotation, and Fig. 2 is a side view in which the axis of rotation would extend horizontally above the drawing, if it were to be depicted. From this Applicant concludes that the only structure that could possibly be considered analogous to the claimed lid would be the first wall 12 which forms the uppermost structure of the cuvette. In

addition, Applicant argues any steps formed between the cavities are formed horizontally, not vertically, as in the present invention.

The Examiner respectfully disagrees. First, it is noted that recitation to top and bottom are moot since the cell is a free standing structure which can be rotated along any axis. Since the cell structure is not claimed in combination with any other elements, the top and bottom of the cell is not relevant. All of the claimed structural limitations are met by Nilsson. In addition, the Examiner agrees that Fig. 2 is a side view, however, the axis of rotation C is explicitly taught in Nilsson as “located on the extension of a line interconnecting first cavity 16 and reception cavity 22.” See col. 4, lines 42-44. Thus, drawing a line in Fig. 2 through these elements (16 to 22) it is clear the axis of rotation would extend from top of the page to the bottom of the page like the axis C in Fig. 1. above Fig. 2, if it were to be depicted. Thus, the claims remain rejected under Nilsson.

### ***Conclusion***

12. No claims are allowed.
13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to P. Kathryn Wright whose telephone number is (571)272-2374. The examiner can normally be reached on Monday thru Thursday, 9 AM to 6 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yelena G. Gakh/  
Primary Examiner, Art Unit 1797

pkw